

Message Text

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PAGE 01 BOMBAY 01335 311439Z
ACTION L-03

INFO OCT-01 NEA-11 ISO-00 FBOE-00 A-01 JUSE-00 /016 W
-----022159 010328Z /14

R 310715Z MAY 78
FM AMCONSUL BOMBAY
TO SECSTATE WASHDC 8285
INFO AMEMBASSY NEW DELHI

UNCLAS BOMBAY 1335

STATE FOR L

DEPT ALSO PASS JUSTICE FOR BRUNO A. RISTAU, CHIEF, FOREIGN
LITIGATION

NEW DELHI FOR B.M. RAO, USAID ATTORNEY ADVISOR

E. O. 11652: N/A
TAGS: ABLD, ACLM, IN
SUBJ: AGA KHAN PROPERTY

REF : STATE 133142

1. CONGEN GREATLY APPRECIATES DEPARTMENT'S AUTHORIZATION
FOR THE APPEARANCE AND HIRING OF LOCAL LEGAL COUNSEL FOR
PRESENTATION OF USG CASE BEFORE CHARITY COMMISSIONER.

2. CONGEN HAS RETAINED MR. ASHOK C. PRATAP, A 1959 LAW
GRADUATE OF THE UNIVERSITY OF BOMBAY. IN 1962 HE BECAME A
BARRISTER-AT-LAW AND WAS DRAWN TO THE LINCOLN'S INN IN
LONDON. AFTER A YEAR'S PRACTICE IN LONDON WITH SIR IVOR
RICHARD, FORMER BRITISH AMBASSADOR TO UN, HE WAS AN
ASSOCIATE IN THE US FOR FIVE YEARS WITH A NEW YORK LAW
FIRM, ROGERS AND WELLS. HE HAS BEEN IN ACTIVE LEGAL
PRACTICE IN INDIA FOR OVER TEN YEARS AND IS THE LEGAL
COUNSEL FOR AN AGENCY OF THE GOVERNMENT OF YUGOSLAVIA.

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FURTHER, HE IS PRESENTLY RETAINED BY SOME US AND OTHER
MULTINATIONAL COMPANIES SUCH AS GLEASON GEARS OF ROCHESTER,
NEW YORK. ALSO HE ADVISES OFFSHORE INTERNATIONAL, HOUSTON,
AN OFFSHORE DRILLING COMPANY HOLDING MULTI-MILLION
DOLLAR CONTRACTS WITH THE GOVERNMENT OF INDIA. THESE US
COMPANIES HAVE RATED PRATAP'S LEGAL WORK HIGHLY.

3. MR. PRATAP'S LEGAL FEES NORMALLY ARE RS.300 PER HOUR. HOWEVER, AS HE CONSIDERS THE USG ACCOUNT A PRESTIGIOUS ONE HE HAS AGREED TO CHARGE RS.275 PER HOUR FOR NON-COURT APPEARANCE WORK. IN THE PRESENT MATTER WHICH WAS HANDLED ON A CRASH BASIS HIS FEE FOR ALL THE WORK INCLUDING REVIEW OF FILES, CONFERENCES, DRAFTING, ETC., UP TO AND INCLUDING THE FILING OF THE CONGEN'S AFFIDAVIT WITH CHARITY COMMISSIONER IS RS.16,750. THEREAFTER THE HOURLY RATE WILL APPLY TO THE SERVICES RENDERED AND FOR COURT APPEARANCES THE RATE WOULD BE RS.1650 PER APPEARANCE.

4. WE BELIEVE THAT, IN THE LIKELY EVENT THAT THE CHARITY COMMISSIONER REFUSES TO REVOKE HIS OWN EARLIER ORDER, THE SPECULATIVE BUILDER WOULD THEN MOST PROBABLY MOVE (IMPLEADING THE USG AS A PARTY RESPONDENT) THE HIGH COURT OF BOMBAY UNDER THE WRIT JURISDICTION OF THE CONSTITUTION OF INDIA PRAYING THE COURT TO COMPEL THE CHARITY COMMISSIONER TO REVOKE HIS ORDER. IN THIS EVENT CONGEN WOULD NEED AUTHORITY TO JOIN TRUSTEES IN DEFENDING THE CHARITY COMMISSIONER'S ORDER. PROSPECTS FOR SUCCESS AT THIS STAGE ARE CONSIDERED GOOD AS SUCH A PETITION MAY NOT BE ADMITTED BY THE COURT AND MAY BE DISMISSED SUO MOTO. ALTERNATIVELY, IT COULD HAPPEN THAT THE CHARITY COMMISSIONER MAY REVOKE HIS EARLIER ORDER, IN WHICH CASE THE TRUSTEES, WOULD PROBABLY MOVE THE HIGH COURT OF BOMBAY. IN THIS EVENT, THE USG SHOULD JOIN THE TRUSTEES AND LEND SUPPORT TO

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THEIR CASE AND/OR MOVE THE HIGH COURT INDEPENDENTLY, IF POSSIBLE AND NECESSARY. IN ANY EVENT WE NEED AUTHORITY TO JOIN PROMPTLY WITH TRUSTEES IN SEEKING TO HAVE HIGH COURT UPHOLD THE CHARITY COMMISSIONER'S ORDER, THE RULING WE HOPE FOR AT THIS STAGE.

5. CONGEN WILL KEEP BOTH DEPARTMENT AND JUSTICE ADVISED OF THE PROGRESS OF LITIGATION. WE WILL ALSO FORWARD COPIES OF DOCUMENTS FILED ON BEHALF OF USG BOTH BEFORE THE CHARITY COMMISSIONER AND BEFORE THE HIGH COURT, IF ANY. AT THE PRESENT MOMENT, DEPARTMENT WILL APPRECIATE THAT IT WOULD NOT BE POSSIBLE FOR THE CONGEN TO SPECIFY FURTHER THE LITIGATION PLAN AND THE EXPECTED COSTS FOR COUNSEL FOR EACH STAGE. MR. B.M. RAO, USAID ATTORNEY ADVISOR IS FULLY COORDINATING WITH THE CONGEN AND PRATAP.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 31 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BOMBAY01335
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780228-0683
Format: TEL
From: BOMBAY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978055/aaaaadnf.tel
Line Count: 110
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 93f5b39b-c288-dd11-92da-001cc4696bcc
Office: ACTION L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 133142
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2665169
Secure: OPEN
Status: NATIVE
Subject: AGA KHAN PROPERTY
TAGS: ABLD, ACLM, IN
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/93f5b39b-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014